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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,742	03/08/2001	John R. Carlile	442 - 2	8234

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EXAMINER

MANNING, JOHN

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/802,742	CARLILE, JOHN R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Manning	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-15,17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-15,17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to the amended claims have been considered but are moot in view of the new ground(s) of rejection.

The Officially Noticed facts of the previous Office Action were not traversed.

Consequently, the Officially Noticed facts are admitted prior art.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soll et al. (US Pat Pub No 2003/0055679).

In regard to claim 1, Soll discloses a system and method of a network of client-server computers with individual workstations for accessing systems programs and providing select services. The claimed step of "providing a physician's office with a patient waiting room", "providing the waiting room with an in-waiting room video display unit" is met by Figure 1. The "patients use a patient carrel 10 (FIG. 1) in a private cubicle near the waiting room to directly input their responses to questions regarding symptoms and psychosocial issues. This patient carrel is typically configured as depicted in FIG. 2, comprising a display terminal 70 for presenting questions and other

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information and a touch-sensitive screen, which has icons 75 and text to guide the patient through the assessment module" (Paragraph 0080). "To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097). The claimed step of "providing a remote database with health-care information video programming encompassing at least matters of the diagnosis of disease or disorder or, as well, matters of medications, procedures or other treatments" is met by Figure 1 Item 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076). The claimed step of "continually playing a sub-set of the programming over the in-waiting room video display unit to afford interested waiting-room parties the opportunity to view the programming without opportunity to interact with the programming, wherein the programming is chosen with target interests in mind, said target interests comprising predicted interests of waiting-room patients and their guests in a physician waiting room preceding a physician visits" is met by Figure 5C. The reference discloses user interaction after the video in order to determine the

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effectiveness of the material, however, the user has no interaction during the display of the video. "To maximize patient involvement and relevance, interactions with the system are individualized based on prior patient responses and patient characteristics (e.g., age, gender, ethnicity, socioeconomic background)" (Paragraph 0055). "The physician can also input other assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083). It is note that the claimed step of "wherein said predicted interests are determined either by manual surveys administered to waiting-room parties of this waiting room in the past as predictive of the interests of waiting-room parties of this waiting room in the present and future who substantially are and will be different individuals from the waiting-room parties of this waiting room manually survived in the past, or else by computer-implemented usage-monitoring surveys of waiting-room parties of this waiting room in the past during online usage of the remote database for deeper research therein as predictive of the interests of waiting-room parties of this waiting room in the present and future who substantially are and will be different individuals from the waiting-room parties of this waiting room surveyed by computer-implemented usage-monitoring in the past" is interpreted to be claimed in the alternative such that the claimed limitation may be met by either "said predicted interests are determined either by manual surveys administered to waiting-room parties of this waiting room in the past as predictive of the interests of waiting-room parties of this waiting room in the present and future who substantially are and will be different individuals from the waiting-room parties of this waiting room manually survived in the

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past” or “else by computer-implemented usage-monitoring surveys of waiting-room parties of this waiting room in the past during online usage of the remote database for deeper research therein as predictive of the interests of waiting-room parties of this waiting room in the present and future who substantially are and will be different individuals from the waiting-room parties of this waiting room surveyed by computer-implemented usage-monitoring in the past”. The claimed step of “said predicted interests are determined either by manual surveys administered to waiting-room parties of this waiting room in the past as predictive of the interests of waiting-room parties of this waiting room in the present and future who substantially are and will be different individuals from the waiting-room parties of this waiting room manually surveyed in the past” is met by Figure 5A-5C (See Paragraph 0055). The reference discloses providing the user with Internet access to the remote database for research. The “CPM system can connect with third party systems, such as insurance companies via network, Internet, or modem applications. The system also includes a centralized data warehouse/server that can serve Internet or modem applications from distant sites for the purposes of accessing patient records, research, quality assessments, and benchmarking performance” (Paragraph 0079). Soll is silent with respect to the correlation of programming with an index code (mnemonic). Official notice is taken that is well known in the art to correlate programming with an index code (mnemonic) so as to offer a short hand method of identifying programming. Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the correlation of programming with an index code (mnemonic) for the stated advantage.

In regard to claim 2, Soll discloses that the video programming comprises full audio-visual formats. "To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097).

In regard to claim 3, the claimed step of "an intermediate database for the sub-set of programming" is met by server/database 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 4, Soll discloses that the server/database 30 comprises a LAN device. "The system employs a network of client-server computers, with individual workstations for accessing system programs and providing select services. The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database

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30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 5, Soll discloses the system accessing information from the Internet. The reference is silent with respect to the accessing video and control information from the Internet. Official notice is taken that is well known in the art to access video and control information from the Internet so as to take advantage of the internet's far reaching infrastructure. Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the accessing video and control information from the Internet for the stated advantage.

In regard to claim 6, the claimed step of "providing the physician's offices at least one back office provided with at least one back office video display unit for playing selections of the health-care video programming chosen by a physician or staff for the viewing of a patient party for instruction or education purposes" is met by Figure 1, Item 40. The "physician workstation 40, typically placed in the examining room, operates to provide the physician with CPM problem-oriented patient evaluation and historical information and management guidelines. Physician workstations communicate with the CPM server/database 30" (Paragraph 0079). "The physician can also input other assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083).

4. Claims 7, 9-15, 17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soll et al. in view of Ballantyne et al. (US Pat No 5,867,821).



In regard to claim 7, Soll is silent with respect review given selections of the remote database's health-care information video programming independently from the physician's office for instruction or education purposes. Ballantyne teaches extending the functionality of the system to the patient's residence (i.e. a location independent from the physician's office) so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53). Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the extended functionality of the system to a diversity of distributed physician offices for the stated advantage.

In regard to claim 9, the recited limitations are met by that discussed for claim 1 except Soll is silent with respect to a diversity of distributed physician offices. Ballantyne teaches extending the functionality of the system to a diversity of distributed physician offices so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53). Consequently, it would have been obvious to one of ordinary skill

in the art to implement Soll with the extended functionality of the system to a diversity of distributed physician offices for the stated advantage.

In regard to claim 10, Soll discloses that the video programming comprises full audio-visual formats. "To improve patient comprehension, this module incorporates video clips and audio and visual aids so that appropriate information is conveyed to the patient regarding the intervention they will receive. Because the information presented can be catered to patient characteristics, appeals to a variety of learning styles with its multimedia format, and can be reviewed or repeated at the patient's pace, this sequence provides an effective means for education on informed consent issues" (Paragraph 0097).

In regard to claim 11, the claimed step of "an intermediate database for the subset of programming" is met by server/database 30. "The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 12, Soll discloses that the server/database 30 comprises a LAN device. "The system employs a network of client-server computers, with individual workstations for accessing system programs and providing select services. The patient carrel 10 is equipped with a PC-based computer (IBM-compatible or MAC), typically Pentium class, and is linked to the network (two are depicted in FIG. 1). These

workstations are programmed to communicate with the central support server/database 30 to provide the requisite functionality to patients and physicians, as will be discussed in more detail below" (Paragraph 0076).

In regard to claim 13, combined teaching discloses the system accessing information from the Internet. The reference is silent with respect to the accessing video and control information from the Internet. Official notice is taken that is well known in the art to access video and control information from the Internet so as to take advantage of the internet's far reaching infrastructure. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with the accessing video and control information from the Internet for the stated advantage.

In regard to claim 14, the claimed step of "providing the physician's offices at least one back office provided with at least one back office video display unit for playing selections of the health-care video programming chosen by a physician or staff for the viewing of a patient party for instruction or education purposes" is met by Figure 1, Item 40. The "physician workstation 40, typically placed in the examining room, operates to provide the physician with CPM problem-oriented patient evaluation and historical information and management guidelines. Physician workstations communicate with the CPM server/database 30" (Paragraph 0079). "The physician can also input other assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083).

In regard to claim 15, Ballantyne teaches extending the functionality of the system to the patient's residence (i.e. a location independent from the physician's office)

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so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53).

In regard to claim 16, the combined teaching is silent with respect to the correlation of programming with an index code. Official notice is taken that is well known in the art to correlate programming with an index code so as to offer a short hand method of identifying programming. Consequently, it would have been obvious to one of ordinary skill in the art to implement the combined teaching with the correlation of programming with an index code for the stated advantage.

In regard to claims 17, the recited limitations are met by that discussed for claim 1 except Soll is silent with respect to a diversity of distributed physician offices. Ballantyne teaches extending the functionality of the system to a diversity of distributed physician offices so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53). Consequently, it would have been obvious to one of ordinary skill in the art to implement Soll with the extended functionality of the system to a diversity of

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distributed physician offices for the stated advantage. The combined teaching is silent with respect to publishing a mnemonic (correlation code) in connection with a given piece of programming.

In regard to claim 19, the claimed step of "providing the physician's offices at least one back office provided with at least one back office video display unit for playing selections of the health-care video programming chosen by a physician or staff for the viewing of a patient party for instruction or education purposes" is met by Figure 1, Item 40. The "physician workstation 40, typically placed in the examining room, operates to provide the physician with CPM problem-oriented patient evaluation and historical information and management guidelines. Physician workstations communicate with the CPM server/database 30" (Paragraph 0079). "The physician can also input other assessment data (e.g., other problems or physical findings), select management options, and select patient education materials" (Paragraph 0083).

In regard to claim 20, Ballantyne teaches extending the functionality of the system to the patient's residence (i.e. a location independent from the physician's office) so as to increase the number of people educated. "The ML is linked to external sources via Direct Broadcast Satellite (DBS) equipment, to receive or transmit relevant information. It is also linked to external clinics, other hospitals, medical schools, general practitioner's offices, and patients' residences through landline communications (twisted pair, coaxial cabling, fiber optic cable), DBS or wireless communications (44)" (Col 6, Lines 49-53).

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is 571-272-7352. The examiner can normally be reached on M-F: 9:00 - 5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM

May 24, 2006



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